vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.145 OF 1998

Ananda Dnyandeo Shinde ... Petitioner

V/s.

The Chairman
mahatma Jyotirao Phule
Vishwabharati & Ors. ... Respondents

Mr.S.S. Pakale for Petitioner
Mr.H.G. Wakshe h/f P.A. Pol for Respondent Nos.1 and 2
Mr.S.K. Chinchalikar, AGP, for Respondent No.4

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **SEPTEMBER 20, 2007**

ORAL JUDGMENT:

. The Petition challenges the order of the School Tribunal passed in Appeal No.188 of 1996. The School Tribunal has dismissed the appeal filed by the Petitioner.

2. The Petitioner was initially appointed as a probationer on 5.6.1990 for a period of two years. Admittedly, at that stage, he was over the age of 28 years which is the maximum age stipulated in Rule 9(4)(a) of the Maharashtra Employees of Private Schools Rules. This period of probation was continued by another letter of 9.6.1992 for a further period of two years. Subsequently, on 6.6.1994 by a resolution passed by Respondent Nos.1 and 2, the petitioner was appointed

as a graduate trainee teacher in Respondent No.1 school. Admittedly, the petitioner was not qualified with a Diploma in education (D.Ed.) but had a B.Ed degree. On 31.8.1994, a notice of termination of service was issued to the petitioner by the school contending that it had no option but to terminate his services since the appointment of the petitioner had not been approved by the Education Officer. Approval was not granted on two counts, namely that the petitioner did not have the qualification of D.Ed. nor was he within the prescribed age limit when he was initially appointed.

3. The School Tribunal has considered these factors and has held, rightly in my view, that the petitioner is not entitled to any relief.

4. The learned Advocate for the petitioner submits that the Petitioner has completed the D.Ed. course pursuant to the order of this Court and, therefore, his case should be considered sympathetically as he was in service for a number of years. While permitting the petitioner to appear for the D.Ed. examination by the order of 3.4.2001, this Court has directed that on completion of D.Ed. course , the petitioner would not be entitled to claim as a matter of right that he was entitled to be reinstated in service. Thus, the submission of the learned advocate for the petitioner

that since the petitioner has acquired the D.Ed. qualification, he should be continued in service cannot be accepted.

5. Apart from this, Rule 9(4)(a) of the MEPS Rules clearly prescribes that the upper age limit for a person being appointed in a particular school is 28 years. It can be relaxed on certain conditions including that the incumbent has worked in another school for a long period of time. According to the learned advocate, the petitioner was working in another school in Chiplun before he joined service with Respondent Nos.1 and 2 and, therefore, the age should be relaxed. In my view, this submission cannot be accepted as there is no pleading nor material to that effect either before the School Tribunal or before this Court.

6. Petition dismissed. Rule discharged. No costs.